



MIKE PENCE, *Governor*
JAMAL L. SMITH, *Executive Director*

ICRC No.: EMse13081369

[REDACTED],
Complainant,

v.

BELTERRA CASINO RESORT,
Respondent.

NOTICE OF FINDING

The Deputy Director of the Indiana Civil Rights Commission ("Commission"), pursuant to statutory authority and procedural regulations, hereby issues the following findings with respect to the above-referenced case. Probable cause exists to believe that an unlawful discriminatory practice occurred in this instance. 910 IAC 1-3-2(b).

On August 6, 2013, [REDACTED] ("Complainant") filed a Complaint with the Commission against Belterra Casino Resort ("Respondent") alleging discrimination on the basis of sex in violation of [REDACTED] the Indiana Civil Rights Law (Ind. Code § 22-9, *et seq.*) Accordingly, the Commission has jurisdiction over the parties and the subject matter.

An investigation has been completed. Both parties have been given the opportunity to submit evidence. Based upon a full review of the relevant files and records and the final investigative report, the Deputy Director now finds the following:

The issue presented to the Commission is whether Complainant was forced to resign her employment as a result of being subjected to sexual harassment. In order to prevail, Complainant must show that: (1) Complainant was subjected to unwelcome sexually offensive or unwelcome comments/actions in the workplace; (2) the comments/actions were sufficiently severe or pervasive such that it would interfere with a reasonable employee's employment; (3) Complainant made it known that the comments were unwelcome; and (4) Respondent failed to take corrective action to address the hostile work environment resulting in Complainant resigning her employment.

By way of background, Complainant worked in the laundry area for Respondent's location in Florence, Indiana. Complainant alleges that on or about July 12, 2013, a male co-worker tried to kiss her twice, attempted to touch her breasts by running his hands across her shirt, and



made unwanted sexual comments about her breasts. Further, Complainant alleges that a second male co-worker photographed the incidents and encouraged the other male co-worker to continue harassing Complainant. The evidence reveals that Complainant made it known that the actions were unwelcome when she told the alleged harasser “No” and pushed him away. On the same day, the evidence shows that Complainant reported the harassment to her supervisor. Further, witness testimony substantiates that Complainant filed a police report against her alleged harasser and he was charged with battery.

While Respondent contends that it took immediate action by terminating the alleged harasser within 48 hours of Complainant reporting the incident and offering to modify her schedule including moving her to another shift, it has failed to provide any evidence to substantiate these claims. Moreover, available evidence shows that the alleged harasser’s brother worked on the offered shift. As such, Complainant resigned her employment effective on or about July 17, 2013.

Although Respondent alleges it investigated Complainant’s allegations of harassment, Respondent has refused to respond to the Commission’s repeated requests for information and failed to uphold its burden of production to refute Complainant’s allegations. Further, the Commission has provided Respondent ample opportunity to submit evidence sufficient to refute Complainant’s allegations or to prove that it took corrective action against the alleged harasser; however, it has failed to avail itself of the opportunity to do so. Complainant has met her burden of showing that she was subjected to a sufficiently hostile work environment such that a reasonable individual would resign their employment. Thus, based upon the available evidence, there is probable cause to believe that an unlawful discriminatory practice may have occurred in this instance.

A public hearing is necessary to determine whether a violation of the Indiana Civil Rights Law occurred as alleged herein. Ind. Code § 22-9-1-18, 910 IAC 1-3-5. The parties may agree to have these claims heard in the circuit or superior court in the county in which the alleged discriminatory act occurred. However, both parties must agree to such an election and notify the Commission within twenty (20) days of receipt of this Notice, or the Commission’s Administrative Law Judge will hear this matter. Ind. Code § 22-9-1-16, 910 IAC 1-3-6.

March 17, 2014

Date

Akia A. Haynes, Esq.,
Deputy Director
Indiana Civil Rights Commission